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STATE REWARDS PROGRAM UPDATE AND TECHNICAL CORRECTIONS ACT OF 2012

NOVEMBER 13, 2012.—Ordered to be printed

Mr. KERRY, from the Committee on Foreign Relations,
submitted the following

REPORT

[To accompany S. 2318]

The Committee on Foreign Relations, having had under consideration the bill (S. 2318) to authorize the Secretary of State to pay a reward to combat transnational organized crime and for information concerning foreign nationals wanted by international criminal tribunals, and for other purposes, reports favorably thereon, with an amendment in the nature of a substitute, and recommends that the bill, as amended, do pass.

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I. PURPOSE

The purpose of S. 2318 is to help prevent acts of transnational organized crime, genocide, crimes against humanity and war crimes and to help bring their perpetrators to justice by authorizing rewards for information leading to the arrest or conviction of persons involved in such crimes.

II. COMMITTEE ACTION

S. 2318 was introduced by Senators Kerry, Boozman, Isakson, Coons, Durbin, Graham, and Landrieu on April 19, 2012. It was discussed at committee hearings, including on May 24, 2012. On September 19, 2012, the committee ordered S. 2318 reported favorably by voice vote, with an amendment in the nature of a substitute.

III. DISCUSSION

S. 2318, the Department of State Rewards Program Update and Technical Corrections Act of 2012, expands the existing authority of the Secretary of State to issue rewards for information leading to the arrest or conviction of persons accused of committing certain crimes. Under current law, the Secretary is authorized to issue rewards for information related to terrorism, narcotics trafficking, and for information leading to the arrest or conviction of persons indicted for serious violations of international humanitarian law by three specified international tribunals: the International Criminal Tribunal for the Former Yugoslavia (“ICTY”), the Special Court for Sierra Leone (“SCSL”) and the International Criminal Tribunal for Rwanda (“ICTR”), all of which are now winding down their activities. The origins of these programs date back to 1984 when, at the request of the Reagan administration, Congress passed the Act to Combat International Terrorism (P.L. 98-533).

S. 2318 expands existing authority in two respects.

First, it authorizes the issuance of rewards for information leading to the arrest or conviction in any country of individuals wanted for participating in “transnational organized crime,” primarily outside the United States.

Second, it authorizes the issuance of rewards, following advance notification to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House, for information leading to the arrest or conviction in any country of any foreign national accused of war crimes, crimes against humanity, or genocide by an international criminal tribunal (including a hybrid or mixed tribunal).

A. TRANSNATIONAL ORGANIZED CRIME

Transnational organized crime (“TOC”) poses a significant and growing threat to U.S. national security interests and the well-being of American citizens and our allies. It is also big business: According to United Nations assessments, “In 2009 [transnational organized crime] was estimated to generate \$870 billion—an amount equal to 1.5 percent of global GDP. That is more than six times the amount of official development assistance for that year, and the equivalent of close to 7 percent of the world’s exports of merchandise.”¹ The United Nations Office on Drugs and Crime has declared that “[o]rganized crime has diversified, gone global and reached macroeconomic proportions: illicit goods are sourced from one continent, trafficked across another, and marketed in a third. Mafias are today truly a transnational problem: a threat to security, especially in poor and conflict-ridden countries. Crime is fuelling corruption, infiltrating business and politics, and hindering development. And it is undermining governance by empowering those who operate outside the law.”²

The President’s 2011 “Strategy to Combat Transnational Organized Crime: Addressing Converging Threats to National Security”

¹ Transnational Organized Crime—The Globalized Illegal Economy—Facts, www.unodc.org/toc.

² United Nations Office on Drugs and Crime, “The Globalization of Crime: A Transnational Organized Crime Threat Assessment,” 2010; See also, UNODC, “Estimating Illicit Financial Flows Resulting From Drug Trafficking and Other Transnational Organized Crimes: Research Report,” October 2011; and Jeremy Haken, “Transnational Crime in the Developing World,” Global Financial Integrity, February 2011.

defines transnational organized crime groups as “those self-perpetuating associations of individuals who operate transnationally for the purpose of obtaining power, influence, monetary and/or commercial gains, wholly or in part by illegal means, while protecting their activities through a pattern of corruption and/or violence, or while protecting their illegal activities through a transnational organizational structure and the exploitation of transnational commerce or communication mechanisms.”³

Areas of concern that would merit attention under the Rewards program would include transnational criminal activities such as violations of intellectual property rights, piracy, money laundering, trafficking in persons, arms trafficking, trafficking in illicit wildlife and wildlife parts, and cybercrime. As the President’s Strategy spells out and as discussed in the Committee’s May 24, 2012, hearing on “Ivory and Insecurity: The Global Implications of Poaching in Africa,” these criminal activities and the criminal networks that are expanding to facilitate them endanger public safety, public health, often fragile democratic institutions, and global economic stability.

Links between and among transnational organized crime groups, corrupt officials in governments and militaries in some states, and armed groups, terrorists, and drug trafficking organizations pose a particularly troubling threat to stability. The reported involvement of the Revolutionary Armed Forces of Colombia (FARC) in the drug trade, of al-Shabaab in criminal enterprises including kidnapping and extortion, of members of the Forces Armées de la République Démocratique du Congo (FARDC) and other militaries and the Lord’s Resistance Army and other armed groups in poaching and the sale of ivory all point to increasing, generally opportunistic linkages between transnational organized crime, corruption, and various negative forces. In testimony before a subcommittee of the Senate Armed Service Committee, Assistant Secretary of Defense Michael H. Sheehan identified “the convergence of crime, terrorism, and insurgency, in my view, [as] a burgeoning geopolitical trend with great implications to our national security.”⁴

Organized crime takes many evolving and interlinked forms. Cybercriminals working through TOC networks cost consumers billions of dollars, compromise corporate and government computer networks, and undermine the integrity of vulnerable financial systems. In some regions, poachers are decimating elephant, rhino, and tiger populations, along with other species, and with rhino horn bringing as much as \$60,000 per kilogram on the international market, poaching is increasingly becoming connected to transnational organized crime networks. Human trafficking, arms smuggling, and counterfeiting are all carried out by organized crime syndicates at a heavy human and economic cost for both the direct victims and societies as a whole.

The committee is of the view that expansion of the existing Rewards program to transnational organized crime would help

³ National Security Staff, Strategy to Combat Transnational Organized Crime, July 25, 2011; <http://www.whitehouse.gov/administration/eop/nsc/transnational-crime>.

⁴ Opening Statement of Michael H. Sheehan, Assistant Secretary of Defense for Special Operations/Low Intensity Conflict, Hearing on the Department of Defense’s Role in the Implementation of the National Strategy to Combat Transnational Organized Crime, U.S. Senate Committee on Armed Services, Subcommittee on Emerging Threats and Capabilities, March 27, 2012.

dismantle criminal networks engaged in piracy, arms trafficking, trafficking in persons, trafficking in the illicit wildlife trade, cybercrime, and other criminal enterprises. In addition to permitting rewards for tips that lead to the arrest or conviction of transnational organized crime figures, the legislation would also authorize rewards for information leading to the prevention or disruption of ongoing criminal acts by those groups, or the identification of their leaders.

B. WAR CRIMES, CRIMES AGAINST HUMANITY AND GENOCIDE

War crimes, crimes against humanity, and acts of genocide exact a horrific human cost and, as has been affirmed by Congress, exacerbate threats to international stability and the national security of the United States. These tragedies also carry a heavy price tag for the United States and the international community by contributing to regional instability, refugee flows, the need for peacekeeping deployments, economic losses, and the challenges of post-conflict reconstruction and reconciliation.⁵

Current law allows the Secretary of State to issue rewards for persons wanted for war crimes and other gross human rights violations that were committed in certain conflicts in the 1990s through 2002 in Yugoslavia, Rwanda and Sierra Leone. Today, however, war criminals continue to maim, kill, and destabilize with impunity in some corners of the globe. Joseph Kony of the Lord's Resistance Army (LRA) is a prime example of such offenders. For decades he and his top commanders have cut a swathe of terror across much of Central Africa, at a tremendous human cost and at considerable cost to American taxpayers in humanitarian assistance and more recently military support to increase the capacity of regional forces in their effort to end this reign of fear.

In written and oral testimony and correspondence, the Departments of State and Defense have communicated the value of expanding the current Rewards Program to authorize rewards for crimes committed since 2002 in locations other than Yugoslavia, Rwanda, and Sierra Leone. The United States has long been a leader in the prevention and punishment of mass atrocities, and has expended significant resources—including by contributing to peacekeeping missions or carrying out direct military action—to prevent mass atrocities in various locations around the globe. Updating the Rewards program so that rewards are available for crimes committed in those locations is consistent with these long-standing U.S. policies and is a cost effective means of achieving the objectives.

Expansion of the program would allow the Department of State to target key perpetrators of crimes against humanity through a concentrated public campaign using a variety of media to publicize rewards and elicit valuable information. The Department of Defense has affirmed that such a campaign would complement and enhance the efforts of our forces in the field.

⁵S. Con. Res. 71, A concurrent resolution recognizing the United States national interest in helping to prevent and mitigate acts of genocide and other mass atrocities against civilians, and supporting and encouraging efforts to develop a whole of government approach to prevent and mitigate such acts, passed by the Senate, December 22, 2010.

The committee notes that, by authorizing rewards in connection with proceedings of international criminal tribunals, S. 2318 could provide authority for rewards with respect to foreign nationals indicted by the International Criminal Court (ICC). The committee wishes to stress that S. 2318 limits the rewards authority to cases of crimes committed by “foreign nationals” and that section 5 of the legislation expressly states that nothing in this Act or amendments made by the Act shall be construed as authorizing the use of activity precluded under the American Servicemembers’ Protection Act of 2002 (title II of Public Law 107–206; 22 U.S.C. 7421 et seq.). P.L. 107–206 reads in part, “Nothing in this title shall prohibit the United States from rendering assistance to international efforts to bring to justice . . . foreign nationals accused of genocide, war crimes or crimes against humanity.”

The committee also notes that S. 2318 would authorize rewards for foreign nationals indicted by international criminal tribunals created in the future. In order to permit appropriate congressional oversight with respect to the ICC and such tribunals, the legislation includes an advance notification requirement before a reward may be offered.

C. FUNDING

S. 2318 states that the reward money and publicity efforts of the proposed expansion of the State Department Rewards Programs are to be funded as part of the “Emergencies in the Diplomatic and Consular Service” (EDCS) appropriation, a “no-year” appropriation; this funding mechanism is consistent with current funding practice for the existing Rewards Programs. Under authority granted in 2007 (P.L. 110–161), unobligated balances from the prior year’s Diplomatic and Consular Programs can be transferred to the EDCS account for rewards payments. For fiscal year 2013, the administration determined that no additional funds would need to be appropriated for the Rewards Program. S. 2318 states that “The Secretary of State shall use amounts appropriated or otherwise made available to the Emergencies in the Diplomatic and Consular Services account of the Department of State to pay rewards authorized pursuant to this Act and to carry out other activities related to such rewards authorized under section 36 of the State Department Basic Authorities Act (22 U.S.C. 2708).”

D. SECTION-BY-SECTION DESCRIPTION

Section 2 describes the history of the Rewards Programs and its success to date. It then expresses the sense of Congress that the program should be expanded to address the growing threat to important United States interests from transnational criminal activity and to target individuals indicted by international, hybrid, or mixed tribunals for genocide, war crimes, or crimes against humanity beyond those authorized for the three existing tribunals.

Section 3 makes several policy and technical changes to Section 36 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2708).

Section 3(1) inserts “serious violations of international humanitarian law, transnational organized crime” into the purposes section of the law, in addition to the existing purposes of preventing

acts of international terrorism, international narcotics trafficking, and other related criminal acts.

As a reflection of the need for broader interagency input into these issues, Section 3(2) amends existing law by striking the Attorney General as the sole individual with whom the Secretary of State is to consult as appropriate and instead requiring consultation with “heads of other relevant departments or agencies,” which might include the Secretaries of Defense, Treasury, Homeland Security, and the intelligence services as well as the Attorney General and other agency chiefs. This provision regarding interagency consultation is consistent with current standard operating procedure in determining candidates for rewards and other matters.

Section 3(2) also authorizes the Secretary of State to issue rewards for information leading to the arrest or conviction in any country of any individual for participating in, primarily outside the United States, transnational organized crime. It adds “transnational organized crime group” to the existing provision allowing the Secretary of State to issue a reward to an individual who provides information related to the identification or location of key leaders of terrorist organizations. It allows the Secretary to issue a reward to an individual who takes actions to disrupt the financial mechanisms of a transnational organized crime group.

Section 3(2) defines “Transnational Organized Crime” as:

- “(A) racketeering activity (as such term is defined in section 1961 of title 18, United States Code) that involves at least one jurisdiction outside the United States; or
- “(B) any other criminal offense punishable by a term of imprisonment of at least four years under Federal, State, or local law that involves at least one jurisdiction outside the United States and that is intended to obtain, directly or indirectly, a financial or other material benefit.”

Section 3(2) also authorizes the Secretary of State to issue rewards for information leading to the arrest or conviction in any country, or the transfer to or conviction by an international criminal tribunal (including a hybrid or mixed tribunal), of any foreign national accused of war crimes, crimes against humanity, or genocide, as defined under the statute of such tribunal. Section 3(2) requires the Secretary of State to notify the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives not less than 15 days prior to publicly announcing the availability of each such reward. In this report, which may be submitted in classified form if necessary, the Secretary must set forth the reasons why the arrest or conviction of such foreign national is in the national interests of the United States.

Section 4 contains a technical correction striking the previous authorization of a reward for Osama Bin Laden, now deceased.

Section 5 affirms that nothing in this Act or amendments made by this Act shall be construed as authorizing the use of activity precluded under the American Servicemembers’ Protection Act of 2002 (title II of Public Law 107–206; 22 U.S.C. 7421 et seq.).

Section 6 states that the Secretary of State shall use amounts appropriated or otherwise made available to the Emergencies in the Diplomatic and Consular Services account of the Department

of State to pay rewards authorized pursuant to this Act and to carry out other activities related to such rewards authorized under section 36 of the State Department Basic Authorities Act (22 U.S.C. 2708).

IV. COST ESTIMATE

In accordance with Rule XXVI, paragraph 11(a) of the Standing Rules of the Senate, the committee provides this estimate of the costs of this legislation prepared by the Congressional Budget Office.

UNITED STATES CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, November 1, 2012.

Hon. JOHN F. KERRY,
Chairman, Committee on Foreign Relations,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 2318, the Department of State Rewards Program Update and Technical Corrections Act of 2012.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Sunita D'Monte.

Sincerely,

DOUGLAS W. ELMENDORF,
Director.

Enclosure.

S. 2318 The Department of State Rewards Program Update and Technical Corrections Act of 2012

Summary: S. 2318 would authorize the Department of State to make payments for information that would prevent or disrupt transnational organized crime or lead to the arrest or conviction of persons involved in war crimes, crimes against humanity, or genocide. CBO estimates that implementing the bill would have discretionary costs of \$10 million over the 2013–2017 period, assuming appropriation of the necessary amounts.

Pay-as-you-go procedures do not apply to this legislation because it would not affect direct spending or revenues.

S. 2318 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of S. 2318 is shown in the following table. The costs of this legislation fall within budget function 150 (international affairs).

Changes in Spending Due to S. 2318
 By Fiscal Year, in Millions of Dollars

	2013	2014	2015	2016	2017	2013–2017
Changes in Spending Subject to Appropriation						
Estimated Authorization Level	1	2	2	2	2	10
Estimated Outlays	1	2	2	2	2	10

NOTE: Annual changes do not sum to totals because of rounding.

Basis of estimate: For this estimate, CBO assumes that S. 2318 will be enacted early in fiscal year 2013, that the necessary amounts will be appropriated each year, and that outlays will follow historical spending patterns for existing programs.

S. 2318 would expand two existing rewards programs administered by the Department of State. The War Crimes Rewards Program makes payments for information about persons indicted by the Special Court for Sierra Leone and international tribunals for the former Yugoslavia and Rwanda. Over the last two years, it has made 14 payments totaling about \$6 million. S. 2318 would expand that program to include other alleged war criminals.

The department also has a rewards program that targets international narcotics trafficking. That program made 20 payments totaling about \$36 million over the last four years. The bill would expand that program to cover transnational crime that does not involve narcotics trafficking (such as trafficking in weapons, persons, and counterfeit products).

Based on information from the department and average payments made by both programs in recent years, CBO estimates that under S. 2318 the department would make two additional payments each year and that implementing the bill would have discretionary costs of \$1 million in 2013 as the programs expand, and \$2 million a year over the 2014–2017 period.

Pay-as-you-go considerations: None.

Intergovernmental and private-sector impact: S. 2318 contains no intergovernmental or private-sector mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments.

Estimate prepared by: Federal Costs: Sunita D'Monte; Impact on State, Local, and Tribal Governments: J'nell L. Blanco; Impact on the Private Sector: Marin Randall.

Estimate approved by: Theresa Gullo, Deputy Assistant Director for Budget Analysis.

V. EVALUATION OF REGULATORY IMPACT

Pursuant to Rule XXVI, paragraph 11(b) of the Standing Rules of the Senate, the committee has determined that there is no regulatory impact as a result of this legislation.

VI. CHANGES IN EXISTING LAW

In compliance with Rule XXVI, paragraph 12 of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman).

STATE DEPARTMENT BASIC AUTHORITIES ACT OF 1956

* * * * *

SEC. 36. DEPARTMENT OF STATE REWARDS PROGRAM

(a) ESTABLISHMENT.—(1) IN GENERAL.—There is established a program for the payment of rewards to carry out the purposes of this section.

(2) PURPOSE.—The rewards program shall be designed to assist in the prevention of acts of international terrorism, international narcotics trafficking, *serious violations of international humanitarian law, transnational organized crime*, and other related criminal acts.

(3) IMPLEMENTATION.—The rewards program shall be administered by the Secretary of State, in consultation, as appropriate, with the Attorney General.

(b) REWARDS AUTHORIZED.—In the sole discretion of the Secretary (except as provided in subsection (c)(2) of this section) and in consultation, as appropriate, with the [Attorney General] *heads of other relevant departments or agencies*, the Secretary may pay a reward to any individual who furnishes information leading to—

(1) the arrest or conviction in any country of any individual for the commission of an act of international terrorism against a United States person or United States property;

(2) the arrest or conviction in any country of any individual conspiring or attempting to commit an act of international terrorism against a United States person or United States property;

(3) the arrest or conviction in any country of any individual for committing, primarily outside the territorial jurisdiction of the United States, any narcotics-related offense if that offense involves or is a significant part of conduct that involves—

(A) a violation of United States narcotics laws such that the individual would be a major violator of such laws;

(B) the killing or kidnapping of—

(i) any officer, employee, or contract employee of the United States Government while such individual is engaged in official duties, or on account of that individual's official duties, in connection with the enforcement of United States narcotics laws or the implementing of United States narcotics control objectives; or

(ii) a member of the immediate family of any such individual on account of that individual's official duties, in connection with the enforcement of United States narcotics laws or the implementing of United States narcotics control objectives; or

(C) an attempt or conspiracy to commit any act described in subparagraph (A) or (B);

(4) the arrest or conviction in any country of any individual aiding or abetting in the commission of an act described in [paragraph (1), (2), or (3)] paragraph (1), (2), (3), (8), or (9);

(5) the prevention, frustration, or favorable resolution of an act described in [paragraph (1), (2), or (3)] paragraph (1), (2), (3), (8), or (9), including by dismantling an organization in whole or significant part;

(6) the identification or location of an individual who holds a key leadership position in a terrorist organization or transnational organized crime group; [or]

(7) the disruption of financial mechanisms of a foreign terrorist organization[, including the use by the organization of illicit narcotics production or international narcotics trafficking] or transnational organized crime group, including the use by such organization or group of illicit narcotics production or international narcotics trafficking—

(A) to finance acts of international terrorism or transnational organized crime; or

(B) to sustain or support any terrorist organization or transnational organized crime group[.];

(8) the arrest or conviction in any country of any individual for participating in, primarily outside the United States, transnational organized crime;

(9) the arrest or conviction in any country of any individual conspiring to participate in or attempting to participate in transnational organized crime; or

(10) the arrest or conviction in any country, or the transfer to or conviction by an international criminal tribunal (including a hybrid or mixed tribunal), of any foreign national accused of war crimes, crimes against humanity, or genocide, as defined under the statute of such tribunal.

(c) COORDINATION.—(1) PROCEDURES.—To ensure that the payment of rewards pursuant to this section does not duplicate or interfere with the payment of informants or the obtaining of evidence or information, as authorized to the Department of Justice, the offering, administration, and payment of rewards under this section, including procedures for—

(A) identifying individuals, organizations, and offenses with respect to which rewards will be offered;

(B) the publication of rewards;

(C) the offering of joint rewards with foreign governments;

(D) the receipt and analysis of data; and

(E) the payment and approval of payment, shall be governed by procedures developed by the Secretary of State, in consultation with the Attorney General.

(2) PRIOR APPROVAL OF ATTORNEY GENERAL REQUIRED.—Before making a reward under this section in a matter over which there is Federal criminal jurisdiction, the Secretary of State shall obtain the concurrence of the Attorney General.

(d) FUNDING.—(1) AUTHORIZATION OF APPROPRIATIONS.—Notwithstanding section 102 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (Public Law 99–93; 99 Stat. 408), but subject to paragraph (2), there are authorized to be appropriated to the Department of State from time to time such amounts as may be necessary to carry out this section.

(2) PERIOD OF AVAILABILITY.—Amounts appropriated under paragraph (1) shall remain available until expended.

(e) LIMITATIONS AND CERTIFICATION.—(1) MAXIMUM AMOUNT.—No reward paid under this section may exceed \$25,000,000, except as personally authorized by the Secretary of State if he determines that offer or payment of an award of a larger amount is necessary to combat terrorism or defend the Nation against terrorist acts. Without first making such determination, the Secretary may authorize a reward of up to twice the amount specified in this paragraph for the capture or information leading to the capture of a leader of a foreign terrorist organization. [The Secretary shall authorize a reward of \$50,000,000 for the capture or death or information leading to the capture or death of Osama bin Laden.]

(2) APPROVAL.—A reward under this section of more than \$100,000 may not be made without the approval of the Secretary.

(3) CERTIFICATION FOR PAYMENT.—Any reward granted under this section shall be approved and certified for payment by the Secretary.

(4) NONDELEGATION OF AUTHORITY.—The authority to approve rewards of more than \$100,000 set forth in paragraph (2) may not be delegated.

(5) PROTECTION MEASURES.—If the Secretary determines that the identity of the recipient of a reward or of the members of the recipient's immediate family must be protected, the Secretary may take such measures in connection with the payment of the reward as he considers necessary to effect such protection.

(6) FORMS OF REWARD PAYMENT.—The Secretary may make a reward under this section in the form of money, a nonmonetary item (including such items as automotive vehicles), or a combination thereof.

(f) INELIGIBILITY.—An officer or employee of any entity of Federal, State, or local government or of a foreign government who, while in the performance of his or her official duties, furnishes information described in subsection (b) of this section shall not be eligible for a reward under this section.

(g) REPORTS.—(1) REPORTS ON PAYMENT OF REWARDS.—Not later than 30 days after the payment of any reward under this section, the Secretary shall submit a report to the appropriate congressional committees with respect to such reward. The report, which may be submitted in classified form if necessary, shall specify the amount of the reward paid, to whom the reward was paid, and the acts with respect to which the reward was paid. The report shall also discuss the significance of the information for which the reward was paid in dealing with those acts.

(2) ANNUAL REPORTS.—Not later than 60 days after the end of each fiscal year, the Secretary shall submit a report to the appropriate congressional committees with respect to the operation of the rewards program. The report shall provide information on the total amounts expended during the fiscal year ending in that year to carry out this section, including amounts expended to publicize the availability of rewards.

(3) ADVANCE NOTIFICATION FOR INTERNATIONAL CRIMINAL TRIBUNAL REWARDS.—*Not less than 15 days before publicly announcing that a reward may be offered for a particular foreign national accused of war crimes, crimes against humanity, or genocide, the Sec-*

retary of State shall submit to the appropriate congressional committees a report, which may be submitted in classified form if necessary, setting forth the reasons why the arrest or conviction of such foreign national is in the national interests of the United States.

(h) PUBLICATION REGARDING REWARDS OFFERED BY FOREIGN GOVERNMENTS.—Notwithstanding any other provision of this section, in the sole discretion of the Secretary, the resources of the rewards program shall be available for the publication of rewards offered by foreign governments regarding acts of international terrorism which do not involve United States persons or property or a violation of the narcotics laws of the United States.

(i) MEDIA SURVEYS AND ADVERTISEMENTS.—(1) SURVEYS CONDUCTED.—For the purpose of more effectively disseminating information about the rewards program, the Secretary may use the resources of the rewards program to conduct media surveys, including analyses of media markets, means of communication, and levels of literacy, in countries determined by the Secretary to be associated with acts of international terrorism.

(2) CREATION AND PURCHASE OF ADVERTISEMENTS.—The Secretary may use the resources of the rewards program to create advertisements to disseminate information about the rewards program. The Secretary may base the content of such advertisements on the findings of the surveys conducted under paragraph (1). The Secretary may purchase radio or television time, newspaper space, or make use of any other means of advertisement, as appropriate.

(j) DETERMINATIONS OF SECRETARY.—A determination made by the Secretary under this section shall be final and conclusive and shall not be subject to judicial review.

(k) DEFINITIONS.—As used in this section:

(1) ACT OF INTERNATIONAL TERRORISM.—The term “act of international terrorism” includes—

(A) any act substantially contributing to the acquisition of unsafeguarded special nuclear material (as defined in paragraph (8) of section 6305 of this title) or any nuclear explosive device (as defined in paragraph (4) of that section) by an individual, group, or non-nuclear-weapon state (as defined in paragraph (5) of that section); and

(B) any act, as determined by the Secretary, which materially supports the conduct of international terrorism, including the counterfeiting of United States currency or the illegal use of other monetary instruments by an individual, group, or country supporting international terrorism as determined for purposes of section 2405(j)(1)(A) of title 50, Appendix.

(2) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term “appropriate congressional committees” means the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate.

(3) MEMBER OF THE IMMEDIATE FAMILY.—The term “member of the immediate family”, with respect to an individual, includes—

(A) a spouse, parent, brother, sister, or child of the individual;

(B) a person with respect to whom the individual stands in loco parentis; and

(C) any person not covered by subparagraph (A) or (B) who is living in the individual's household and is related to the individual by blood or marriage.

(4) REWARDS PROGRAM.—The term "rewards program" means the program established in subsection (a)(1) of this section.

(5) TRANSNATIONAL ORGANIZED CRIME.—The term "transnational organized crime" means—

(A) racketeering activity (as such term is defined in section 1961 of title 18, United States Code) that involves at least one jurisdiction outside the United States; or

(B) any other criminal offense punishable by a term of imprisonment of at least four years under Federal, State, or local law that involves at least one jurisdiction outside the United States and that is intended to obtain, directly or indirectly, a financial or other material benefit.

(6) TRANSNATIONAL ORGANIZED CRIME GROUP.—The term "transnational organized crime group" means a group of persons that includes one or more citizens of a foreign country, exists for a period of time, and acts in concert with the aim of engaging in transnational organized crime.

[(5)] (7) UNITED STATES NARCOTICS LAWS.—The term "United States narcotics laws" means the laws of the United States for the prevention and control of illicit trafficking in controlled substances (as such term is defined in section 802(6) of title 21).

[(6)] (8) UNITED STATES PERSON.—The term "United States person" means—

- (A) a citizen or national of the United States; and
- (B) an alien lawfully present in the United States.

